

BEFORE THE
PHYSICIAN ASSISTANT EXAMINING COMMITTEE
DIVISION OF ALLIED HEALTH PROFESSIONS
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	No. D-4341
Against:)	
)	OAH No. L-52161
JAMES ROBERT ROACH, P.A.)	
3122 E. Coolidge Street)	
Long Beach, CA 90805)	
)	
Physician Assistant)	
No. PA-10352)	
)	
Respondent.)	

DECISION

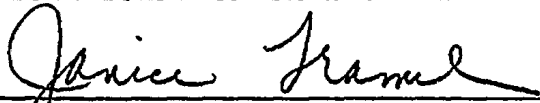
The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Medical Board of California as his Decision in the above-entitled matter.

This Decision shall become effective on _____

November 25, 1991 _____.

IT IS SO ORDERED _____ October 25, 1991 _____.

MEDICAL BOARD OF CALIFORNIA



JANICE TRAMEL, Chairperson
PHYSICIAN ASSISTANT EXAMINING COMMITTEE

BEFORE THE
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JAMES ROBERT ROACH, P.A.)	
3122 E. Coolidge Street)	
Long Beach, CA 90805)	
)	
Physician Assistant)	
No. PA-10352)	
)	
Respondent.)	
)	

PROPOSED DECISION

On July 5, 8 and 9, 1991, in Santa Ana, California, Greer D. Knopf, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Roy W. Hewitt, Deputy Attorney General represented the complainant.

Respondent James R. Roach appeared and represented himself.

Evidence was received, the record was closed and the matter was submitted.

FINDINGS OF FACT

I

Accusation Number D-4341 dated August 6, 1990, was made by Ray Dale in his official capacity as Executive Officer, Physician's Assistant Examining Committee, Medical Board of California against respondent, James R. Roach, P.A.. Respondent filed a timely notice of defense dated October 29, 1990 and a notice of special defenses on May 13, 1991.

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II

Respondent holds a Physician's Assistant's License Number PA-10352 which was issued by the Medical Board of California (hereinafter referred to as "the Board") in 1977.

III

On June 5, 1980, respondent was disciplined by the Board for unprofessional conduct in connection with self administration of dangerous drugs. His license was revoked, revocation stayed and respondent was placed on three years probation. As part of probation, respondent was ordered to complete a drug diversion program.

IV

In 1986, respondent was employed by the County of Los Angeles, Department of Health Services as a Physician's Assistant (hereinafter referred to as "PA") at H. Claude Hudson Comprehensive Health Center (hereinafter referred to as "Hudson"). On July 2, 1986, respondent was given a Notice to Correct Performance by his employer at Hudson based on four patient complaints that respondent performed pelvic exams on female patients without having a female employee present during the examinations. Respondent was aware that the policy at Hudson was to have a female employee present during a pelvic exam. Respondent was warned at this time that further complaints of this type could result in his suspension or discharge from employment.

In October, 1986, after a fifth complaint from a female patient concerning an inappropriate pelvic exam, the County of Los Angeles Department of Health Services discharged respondent from his employment. After filing an appeal, respondent resigned his position and the termination action was withdrawn by the County.

V

In May, 1987, respondent was employed as a PA at the Sano Medical Center in Costa Mesa, California (hereinafter referred to as "Sano"). Elizabeth Sorci came to Sano as a patient. Sorci complained of upper respiratory congestion, coughing, weakness and dizziness. After being put in an examining room, Sorci was examined by respondent without a female employee present. Respondent identified himself as a PA and told Sorci to stand up and take off her hospital gown. Sorci did so and was completely naked. Respondent then turned Sorci around and examined her visually front and back. Respondent then stood behind Sorci and leaned her over at her waist. He then had her

lay down on her back on the examining table, still naked, and told her in medical terminology that it was necessary to conduct a vaginal exam. Respondent then began to rub Sorci's vagina, not wearing a glove, while explaining that he was thinning out her vaginal discharge. Sorci had not complained of a vaginal discharge. The incident ended when a female employee entered the room unexpectedly.

Respondent's conduct during this examination was wholly inappropriate, and unprofessional, and constituted sexual misconduct. His conduct was substantially below the accepted standard of care for a PA under these circumstances. The incident was very upsetting to the patient.

VI

In June, 1988, respondent was employed by Dr. Anthony Yipp, as a PA at the Harbor Medical Clinic in Orange County, California (hereinafter referred to as "Harbor"). Celia Alvarez came to Harbor as a patient. Alvarez complained of back pain and after she was given x-rays was told by the physician at Harbor, Dr. Yipp, that she needed massage therapy for her back. She also talked to respondent at this visit.

In November, 1988, Alvarez returned to Harbor for further treatment for her back pain. She saw respondent whom she knew as "Dr. Roach". Respondent did not identify himself to Alvarez as a PA so she continued to assume he was a doctor. At this visit, respondent first saw Alvarez in an examining room where there was no other employee present and respondent had Alvarez pull down her clothes, leaving her naked from the waist down with no gown or sheet. Respondent touched Alvarez along the front of her upper thigh and she told him that the pain was in her back and not in the area he was touching.

Subsequently, Alvarez was directed to a another room where respondent told her to remove all of her clothes and put on a gown open in the back. There was no other employee present. Respondent first massaged Alvarez back with a massage machine and then began massaging her inner buttock area and upper thigh. Alvarez again protested that her pain was not in that area. Respondent replied that Alvarez should just relax and he dimmed the lights in the room. Respondent then asked Alvarez what part of her body she liked her husband to touch and she said her breasts. Respondent tried to give Alvarez the massage machine he was using and told her to self-massage her breasts. Alvarez refused and asked him again to just work on her back where the pain was located. When she left the clinic, Alvarez was very upset by this incident and later called the clinic and complained.

Respondent's conduct during this examination was wholly inappropriate, unprofessional and constituted sexual misconduct. His conduct was substantially below the accepted standard of care for a PA under these circumstances.

VII

On August 9, 1988, respondent was employed by Dr. Anthony Yipp as a PA at the Main Street Medical Clinic in Santa Anna, California. Ernesto Chavez, a Special Investigator for the Board, came into the Main Street Clinic, using the undercover name Ernesto Zappata, seeking medical attention as part of the Board's investigation of previous allegations against respondent. The clinic staff referred to respondent as "the doctor" in Spanish. Respondent wore no name tag.

Upon meeting respondent, Chavez repeatedly called respondent "Dr. Roach" and respondent never corrected him. Chavez told respondent that he thought he had ulcers and a sore elbow. Chavez requested a drug that sounded similar to Tagamet. Tagamet is a histamine prescription drug used to treat ulcers. Respondent did not refer Chavez for tests to confirm whether or not Chavez actually had ulcers. At the conclusion of the office visit, respondent gave Chavez a prescription for Tagamet and a prescription for Disalcid. Disalcid is an anti-inflammatory prescription drug used for the treatment of arthritis. Respondent filled out the two prescriptions on prescription forms that were pre-signed by Dr. Yipp. Respondent did not consult with Dr. Yipp before giving Chavez the prescriptions.

VIII

On February 3, 1989, respondent was working as a PA at the Harbor Clinic. Kathleen Schmidt, a Special Investigator for the Board, went to the Harbor Clinic with an undercover operative, Michelle Boswell, both using undercover names and seeking medical attention. Respondent examined Boswell, who complained of anxiety, and following the examination, respondent wrote Boswell a prescription for Ativan. The prescription was pre-signed by Dr. Yipp. Ativan is an anti-anxiety sedative. Respondent did not consult with Dr. Yipp before giving Boswell the prescription.

Respondent also examined Schmidt. Schmidt complained of stomach pain and respondent wrote her a prescription for Tagamet. Respondent did not refer Schmidt for any testing for her stomach complaints to confirm whether or not she had an ulcer. Respondent wrote the prescription on a prescription pad with blank forms that were pre-signed. The prescription respondent wrote for Schmidt was pre-signed by Dr. Yipp. Respondent did not consult with Dr. Yipp before giving Schmidt the prescription.

IX

During the time that respondent was employed by Dr. Yipp as a PA at the Harbor and Main Street Clinic, Dr. Yipp did not have any written guidelines covering the prescription or administration of medication concerning the supervision and duties of a P.A.

X

During the time that respondent was employed by Dr. Yipp as a PA at the Harbor and Main Street Clinics, Dr. Yipp did not have a license with the Board to supervise respondent as a PA. Respondent believed that Dr. Yipp had applied for such a license, but began working as Dr. Yipp's PA without confirming that the license had actually been obtained. Respondent failed to make any follow-up inquiry in order to determine whether Dr. Yipp had obtained the necessary license to supervise respondent. Dr. Yipp never obtained such a license.

XI

Respondent established the following facts:

Respondent obtained his Associate of Science Degree in 1974 and his PA License in 1977. He has worked as a PA primarily in industrial health clinics since 1977. However, from 1969 through 1983, respondent was addicted to drugs and alcohol. In 1983, he entered a twelve step program for his addiction. Respondent is married with four children and is active in his community church.

In 1985, he went to work for the County of Los Angeles at H. Claude Hudson Comprehensive Health Clinic where he remained under stressful working conditions until 1987. In 1987, respondent went to work at a clinic run by Dr. Sterbl in Costa Mesa until 1988 when he was hired by Dr. Yipp to work at the Main Street and Harbor Clinics. Respondent believes that Dr. Sterbl reported him to the Board to have respondent investigated because of an argument the two had when respondent left Dr. Sterbl's employ. Respondent worked for Dr. Yipp until June, 1989. Since then, respondent has worked for Dr. Michael Wald at the Occupational Safety Health Network and McDonald Douglas Medical Clinics. Dr. Wald has been very pleased with respondent's job performance in this position for the last two years.

Respondent claims to have no specific recollection of the Sorci incident and did not specifically deny any of the sexual misconduct charges made against him. He has a recollection of the Alvarez visits, but again offered no real denial of the sexual misconduct allegations and no plausible explanation for what occurred. Respondent did understand that he

was to always have a female employee present when performing a pelvic exam on a female patient, but did not seem to think it was necessary for any other kind of examination of a female patient. Respondent did not deny writing pre-signed prescriptions and did not offer any explanation for using pre-signed prescription forms. He believed that Tagamet was appropriate medication for ulcers and stomach pain and that Dr. Yipp allowed such medication for certain conditions without extensive tests being done first.

DETERMINATION OF ISSUES

I

Cause exists to impose discipline against respondent's license pursuant to Business and Professions Code sections 3527 and 726 in that respondent committed sexual misconduct with patients Sorci and Alvarez which is substantially related to the qualifications, functions, or duties of the occupation of physician's assistant, constituting unprofessional conduct as set forth in Findings IV, V and VI.

II

Cause exists to impose discipline against respondent's license pursuant to Business and Professions Code sections 3527 and 2054 in that respondent held himself out as a physician to patients Chavez and Schmidt when he was licensed only as a physician's assistant as set forth in Findings II, VII, and VIII. There is insufficient evidence to establish that respondent held himself out as a physician to any other patients.

III

Cause exists to impose discipline against respondent's license pursuant to Business and Professions Code sections 3527 and 1036 and California Administrative Code title 16, sections 1399.521(e) and 1399.541(f) in that respondent prescribed and transmitted prescriptions to patients, as set forth in Findings VII and VIII, which are tasks exceeding the scope of a physician's assistant's permitted practice.

IV

Cause exists to impose discipline against respondent's license pursuant to Business and Professions Code section 3527 and California Administrative Code title 16, section 1399.521(c) in that respondent failed to ensure that he was supervised by a physician approved by the Board to supervise physician assistants while he was employed at the Main Street Medical Clinic and Harbor Medical Clinic as set forth in Findings X.

V

Cause exists to impose discipline against respondent's license pursuant to Business and Professions Code section 3527 and California Administrative Code title 16, section 1399.545(e) in that respondent failed to establish, with his supervising physician, written guidelines for the supervision of the physician assistant as set forth in Finding IX.

VI

Cause does not exist to impose discipline against respondent's license for repeated acts of negligence pursuant to Business and Professions Code section 2234(c) as alleged "for making his patient stand naked, bending her over and pushing on her back when her only symptoms were of severe bronchitis of pneumonia". Complainant established that respondent committed these acts and that they were acts of negligence, but failed to establish that this constituted repeated acts of negligence as required under Business and Professions Code section 2234(c). Complainant presented evidence of gross negligence, but failed to allege such a violation in connection with this incident in the accusation.

VII

Cause does not exist to impose discipline against respondent's license for any acts or omissions respondent allegedly committed at the H.C. Hudson Clinic pursuant to Business and Professions Code sections 2234 (b) and (c) for repeated acts of negligence and gross negligence. Complainant failed to present any direct evidence of these alleged incidents. The only direct evidence regarding these allegations established that respondent was first warned and later disciplined with dismissal from his employment due to complaints of improper, unnecessary, and unchaperoned examinations of female patients. It was not established through reliable non-hearsay evidence that the underlying incidents for which respondent was dismissed ever actually occurred. The fact of the previous warnings and loss of his job are however considered in determining the appropriate level of discipline herein.

VIII

Respondent has been on notice for some time that improper, unchaperoned examinations of female patients is not tolerated in his profession. Regardless of whether he is guilty of earlier digressions at H. C. Hudson, he certainly knew such misconduct was unprofessional and unacceptable. He knew that he should have a female chaperon present for intimate examinations of female patients. He nevertheless subsequently committed acts


of sexual misconduct while in an unchaperoned exam room with two female patients. There are no mitigating or extenuating circumstances surrounding these incidents. These women came to respondent for medical help, putting their trust in him; and in a vulnerable state, they were humiliated and abused. Respondent exploited the trust and respect accorded him as a P.A. Respondent further demonstrated his flagrant disregard for the rules of his profession by prescribing medication through pre-signed prescriptions, failing to ensure his adequate supervision and holding himself out to be a physician. Dr. Yipp may be equally at fault for some of these violations, but respondent has a responsibility to comply with the requirements of his profession.

Respondent presented no evidence of rehabilitation. There is no evidence that respondent feels any remorse or that he has made any effort to overcome whatever problems lead him to commit these violations, particularly the acts of unprofessional conduct and sexual misconduct. Respondent does not acknowledge that such acts ever occurred, so there is no assurance that respondent will not continue to abuse the trust that has been placed in him by the State of California and the public.

ORDER

Respondent James R. Roach's license number PA-10352 is hereby revoked.

Dated: 9-4-91


GREER D. KNOPF
Administrative Law Judge
Office of Administrative Hearings

GDK:ln

1 LICENSE HISTORY

2 2. On or about April 5, 1978, the Committee issued
3 Physician's Assistant License #PA-10352 to James R. Roach
4 ("respondent"). That license is current and will expire, unless
5 renewed, on September 30, 1991.

6 PRIOR LICENSE DISCIPLINE

7 3. On June 19, 1979, Accusation #D-2361 was filed
8 against respondent charging him with self administration of
9 Schedule II controlled substances Demerol and Leritine and for
10 possession of those controlled substances without prescription.

11 4. By Committee decision of June 5, 1980, respondent's
12 license was revoked, that revocation was stayed and he was placed
13 on three (3) years probation under certain terms and conditions.
14 A true and correct copy of Accusation #D-2361 and the Decision in
15 that case are attached hereto as Attachment 1 and incorporated by
16 reference.

17 STATUTES AND REGULATIONS

18 This Accusation is brought with reference to the
19 following statutes and regulations:

20 5. California Business & Professions Code (the "Code")
21 section 3527(a) provides that the Committee may suspend, revoke,
22 or impose probationary conditions on a physician's assistant
23 license for unprofessional conduct which includes, but is not
24 limited to, any violation of the State Medical Practice Act, any
25 violation of Chapter 7.7, or any violation of the regulations
26 adopted by the Committee or the Medical Board of California.

27 ///

1 6. Code section 2234 provides, in pertinent part, that
2 it is unprofessional conduct for a licensee to commit acts of
3 gross negligence (subdivision (b)) and repeated negligent acts
4 (subdivision (c)).

5 7. Code section 726 provides that it is unprofessional
6 conduct for a licensee to commit any acts of sexual abuse,
7 misconduct, or relations with a patient which is substantially
8 related to the qualifications, functions or duties of the
9 occupation for which the license was issued.

10 8. Code section 2054 provides, in pertinent part, as
11 follows:

12 "Any person...who represents or holds himself or
13 herself out as a physician and surgeon, physicians,
14 surgeon, or practitioner under the terms of this or any
15 other law, without having at the time of so doing a
16 valid, unrevoked, and unsuspended certificate as a
17 physician and surgeon under this chapter, is guilty of
18 a misdemeanor."

19 9. Code section 4036 provides, in pertinent part, that
20 "[n]o person other than a physician, dentist, podiatrist, or
21 veterinarian shall prescribe or write a prescription."

22 10. California Code of Regulation ("CCR") section
23 1399.521 provides further grounds for discipline of a physician's
24 assistant license, inter alia, as follows:

25 "(c) Practicing as a physician's assistant under a
26 physician or other person who has not received the

27 ///

1 approval of the board...to supervise a physician's
2 assistant;

3 * * *

4 (e) Performing medical tasks which exceed the scope of
5 practice of a physician's assistant as prescribed in these
6 regulations."

7 11. CCR section 1399.540 provides, in pertinent part,
8 as follows:

9 "A physician assistant may only provide those
10 medical services which he or she is competent
11 to perform and which are consistent with the
12 physician assistant's education, training,
13 and experience, and which are delegated in
14 writing by a supervising physician who is
15 responsible for the patients cared for by
16 that physician assistant" (emphasis added).

17 12. CCR section 1399.541 lists what a physician
18 assistant may do. Subdivision (f) expressly provides, in
19 pertinent part, that "[n]othing in this section shall be
20 construed as authorizing a physician's assistant to prescribe
21 medication, unless he or she is engaged in a health manpower
22 pilot project pursuant to Section 3502.1 of the code."

23 13. CCR section 1399.541 (h) provides, in pertinent
24 part, that a physician assistant may do the following:

25 "Administer medication to a patient, or
26 transmit orally, or in writing on a patient's
27 record, a prescription from his or her

1 supervising physician to a person who may
2 lawfully furnish such medication or medical
3 device. The supervising physician's
4 prescription, transmitted by the physician
5 assistant, for any patient cared for by the
6 physician assistant shall be based either on
7 a patient-specific order by the supervising
8 physician or on written protocol which
9 specifies all criteria for the use of a
10 specific drug or device and any
11 contraindications for the selection. A
12 physician assistant shall not provide a drug
13 or transmit a prescription for a drug other
14 than that drug specified in the protocol,
15 without a patient-specific order from a
16 supervising physician....A physician
17 assistant may not administer, provide or
18 transmit a prescription for controlled
19 substances in Schedules II through V
20 inclusive without patient-specific authority
21 by a supervising physician." (emphasis
22 added).

23 14. CCR section 1399.545 (e) provides that a physician
24 assistant and the supervising physician shall establish in
25 writing guidelines for the adequate supervision of the physician
26 assistant.

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1 15. "Ativan" is a commercial name for lorazepam, a
2 dangerous drug within the meaning of Code section 4211 and a
3 Schedule IV controlled substance within the meaning of California
4 Health & Safety Code section 11057.

5 16. "Tagamet" is a commercial name for cimetidine, a
6 dangerous drug within the meaning of Code section 4211.

7 17. "Disalcid" is a commercial name for salsalate, a
8 dangerous drug within the meaning of Code section 4211.

9 CHARGES AND ALLEGATIONS

10 Re patient Elizabeth S.

11 18. In June of 1987, Elizabeth S. went to the Sano
12 Medical Center in Costa Mesa, California with complaints of
13 cough, congestion, running nose and malaise.

14 19. After Elizabeth S. had removed her clothes and put
15 on a hospital gown, respondent entered the examination room and
16 identified himself to her as "Dr. Roach." Only respondent and the
17 patient were in the room during the examination except as noted
18 below.

19 20. After listening to her breathing and examining her
20 eyes and ears, respondent told her to stand up and take off her
21 gown, leaving her naked. He then turned her around and told her
22 to bend over while he pushed on her back.

23 21. Respondent then told Elizabeth S. to get back on
24 the examining table. She did so, with her hospital gown bunched
25 up above her waist. Respondent proceeded to rub her vagina,
26 explaining to her, using medical terminology, that pneumonia can

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1 cause thick vaginal discharge and that by his rubbing her the
2 discharge would be thinner.

3 22. Elizabeth S. was uncomfortable and apprehensive
4 about this touching and said so. Respondent assured her that he
5 was not like that doctor who raped his patients behind his
6 curtain.

7 23. During his touching of Elizabeth S., the office
8 receptionist entered the room and respondent immediately stopped
9 what he was doing and pulled down Elizabeth S's hospital gown.

10 24. Grounds exist for discipline of respondent's
11 license, based on the allegations in paragraphs 18 through 23, as
12 follows:

13 A. For sexual misconduct under Code section 726, in
14 that there was no indication for a pelvic examination and that
15 even if there had been an indication for such an examination,
16 respondent rubbed his patient's vagina, which does not constitute
17 a pelvic examination;

18 B. For negligent acts under Code section 2234 (c) for
19 the sexual misconduct and for making his patient stand naked,
20 bending her over and pushing on her back when her only symptoms
21 were of severe bronchitis of pneumonia;

22 C. For holding himself out as a physician when he was
23 not, a violation of Code section 2054.

24 Re patient Cecilia A.

25 25. In approximately June of 1988, Cecilia A. became a
26 patient of respondent's at Harbor Medical Clinic in Orange
27 County. Respondent never identified himself to his patient as a

1 physician assistant and she was under the impression that he was
2 a doctor.

3 26. In approximately November of 1988, Cecilia A. went
4 to respondent with a complaint of back and hip pain from
5 improperly lifting a heavy object. Respondent had her pull her
6 pants and pantyhose down to mid-thigh and then felt her buttock
7 and left front inside thigh. He then told her to dress and go to
8 another room.

9 27. In the other room, the patient undressed from the
10 waist down and respondent proceeded to use two instruments to
11 massage the patient's lower left hip and the inside left thigh,
12 despite the fact that the patient told him she had no pain where
13 he was massaging.

14 28. Respondent then proceeded to massage her middle
15 buttock area and ask her if it excited her and what area aroused
16 her. When she replied that touching her breasts aroused her,
17 respondent asked her if she wanted to massage her breasts. She
18 said she did not.

19 29. Grounds exist for further discipline of
20 respondent's license, based on the allegations in paragraphs 25
21 through 28, as follows:

22 A. For sexual misconduct under Code section 726,
23 specifically his massaging of her inner thigh, buttocks and lower
24 hip where there was no pain, his massage of her middle buttock
25 area and his questions regarding sexual arousal and whether she
26 wanted to massage her own breasts;

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1 B. For holding himself out as a physician when he was
2 not, a violation of Code section 2054.

3 Re acts and omissions at H.C. Hudson Clinic

4 30. During all of 1985 and until November 4, 1986,
5 respondent was employed as a physician assistant at H.C. Hudson
6 Comprehensive Health Center, a health care facility under the Los
7 Angeles County Dept. of Health Services.

8 31. Starting on or about February 6, 1985, the
9 hospital administration began to receive complaints that
10 respondent was conducting breast and pelvic examinations of
11 female patients without a female chaperone in the examining room.
12 The presence of a second female under those circumstances was a
13 policy of the clinic which respondent knew or should have known.

14 32. Respondent was counseled at the time of the
15 February 6, 1985 incident regarding the clinic's policy.

16 33. Subsequently, the clinic administration became
17 aware of at least four other instances in which female patients
18 had been given breast and/or pelvic examinations by respondent
19 with no female chaperone in the room and of some allegations of
20 inappropriate behavior of respondent. Respondent was repeatedly
21 counseled.

22 34. As a result of these incidents and his failure to
23 follow clinic policy, respondent was discharged on November 4,
24 1986.

25 35. Grounds exist for further discipline of
26 respondent's license, based on the allegations in paragraphs 30
27 through 33, as follows:

1 A. For negligence under Code section 2234(c) in that
2 he failed to have another female present in the examining room
3 when he conducted breast and/or pelvic examinations when he knew
4 or should have known the clinic's policy to the contrary;

5 B. For repeated acts of gross negligence and/or
6 negligence under Code section 2234(b) and/or (c) in that he had
7 actual knowledge of the clinic's policy concerning female
8 chaperones as of approximately February 6, 1985 yet continued
9 thereafter to conduct breast and/or pelvic examinations on
10 patients without a female chaperone in knowing violation of
11 clinic policy.

12 Re undercover operations against respondent

13 36. On February 3, 1989, Senior Special Investigator
14 K.S. and an undercover operator for the Medical Board of
15 California went to the Harbor Medical Clinic in Santa Ana,
16 California to keep a previously made appointment for the
17 undercover operator. Neither K.S. nor the undercover operative
18 were prior patients of respondent or at the clinic.

19 37. At no time during her visit to the clinic did the
20 undercover operator see a name tag or other identifying signs or
21 materials that identified respondent as a physician assistant.
22 Throughout her appointment with him, respondent answered to the
23 title "Dr. Roach" and made no effort to identify himself as a
24 physician assistant.

25 38. After his examination of the undercover operator
26 respondent wrote out a prescription for "Ativan" on a pre-signed
27 prescription pad and gave it to her.

1 39. After seeing the undercover operator, respondent
2 examined K.S. and wrote out a prescription for the drug "Tagamet"
3 on a pre-signed prescription pad and gave it to K.S.

4 40. At no time during her visit to the clinic did K.S.
5 see a name tag or other identifying signs or materials that
6 identified respondent as a physician assistant. When she asked
7 him whether he was Dr. "Y" (the owner of the clinic), respondent
8 replied only, "No, I'm Jim Roach".

9 41. On August 9, 1988 Senior Special Investigator E.C.
10 was examined by respondent at Main Street Medical Clinic in
11 Santa Ana, California.

12 42. None of the employees in the clinic wore name
13 tags, so E.C. asked the person who was examining him whether he
14 was a doctor. He replied that he was a doctor and that his name
15 was Jim Roach. Thereafter during the examination E.C. addressed
16 respondent as "doctor" and he made neither objection nor
17 correction at any time.

18 43. After the examination, respondent wrote and signed
19 prescriptions for Tagamet and Disalcid and gave them to E.C.

20 44. Grounds exist for further discipline of
21 respondent's license, based on the allegations in paragraphs 36
22 through 43, as follows:

23 A. For performing medical tasks which exceed the scope
24 of a physician assistant's practice, i.e., prescribing and
25 transmitting prescriptions on repeated occasions, a violation of
26 CCR section 1399.521(e);

27 ///

1 B. For holding himself out as a physician when he was
2 not, a violation of Code section 2054;

3 45. At all times relevant herein during which he was
4 employed at either the Harbor Medical Clinic or the Main Street
5 Medical Clinic, respondent was not supervised by a physician
6 approved to supervise physician assistants, which constitutes a
7 violation of CCR section 1399.521(c).

8 46. At all times relevant herein during which he was
9 employed at either the Harbor Medical Clinic or the Main Street
10 Medical Clinic there were no written protocols between respondent
11 and Dr. "Y", who was supposed to be respondent's supervising
12 physician at both clinics, which constitutes a violation of CCR
13 section 1399.545(e).

14 WHEREFORE, Complainant requests that a hearing be held
15 on the matters alleged and, after hearing and according to proof,
16 that the Committee take such action as authorized by the cited
17 statutes and any further action it deems just and proper.

18 Dated: August 6, 1990

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RAY DALE

Executive Officer
Physician's Assistant Examining Committee
Medical Board of California

1 GEORGE DEUKMEJIAN, Attorney General
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5 San Diego, California 92101
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7 Attorneys for Complainant

8 BEFORE THE PHYSICIAN'S ASSISTANT EXAMINING COMMITTEE

9 DIVISION OF ALLIED HEALTH PROFESSIONS

10 BOARD OF MEDICAL QUALITY ASSURANCE

11 DEPARTMENT OF CONSUMER AFFAIRS

12 STATE OF CALIFORNIA

13 In the Matter of the Accusation)
14 Against:)

NO. D-2361

15 JAMES R. ROACH, P.A.)
16 1717 East Birch Street)
17 Brea, California)

ACCUSATION

License No. PA 10352)

Respondent.)

18 COMES NOW your complainant, Evon Dixon, who as
19 cause for disciplinary action against the above-named and
20 encaptioned respondent, charges and alleges as follows:

21 1. She is the Executive Secretary of the Physician's
22 Assistant Examining Committee of the Board of Medical Quality
23 Assurance and makes and files this Accusation in her official
24 capacity as such and not otherwise.

25 2. Respondent James R. Roach (hereinafter referred
26 to as "respondent") has been issued Physician's Assistant
27 Certificate No. PA 10352.

1 3. Section 3527(a) of the Business and Professions
2 Code (hereinafter "the Code") provides that the committee
3 may order the suspension or revocation of, or the imposition
4 of probationary conditions upon a physician's assistant
5 certificate for unprofessional conduct which includes but is
6 not limited to, a violation of the Physician's Assistant
7 Practice Act, a violation of the State Medical Practice Act,
8 or a violation of the regulations adopted by the committee
9 or the board. The committee's regulations, adopted pursuant
10 to Code § 3510 are codified at Title 16 C.A.C. § 1399.500 et
11 seq.

12 4. Section 2390 of the State Medical Practice Act
13 provides that the use or self administration of a Health and
14 Safety Code § 11055 Schedule II controlled substance (or a §
15 4211 dangerous drug) constitutes unprofessional conduct and
16 is grounds for disciplinary action under the State Medical
17 Practice Act.

18 5. Demerol, Winthrop or Brenon's meperidine hydro-
19 chloride, is a Schedule II narcotic (analgesic, sedative)
20 controlled substance by virtue of Health and Safety Code §
21 11055(c) (14), and is also a dangerous drug pursuant to
22 Business and Professions Code § 4211(k). Leritine, Merck,
23 Sharp & Dohme's anileridine, is a Schedule II narcotic (analgesic)
24 controlled substance by virtue of Health and Safety Code §
25 11055(c) (2) and is also a dangerous drug pursuant to Business
26 and Professions Code § 4211(k).

1 6. Respondent['s certification] is subject to
2 disciplinary action by authority of section 3527(a) of the
3 Code because respondent has violated section 2390 of the
4 State Medical Practice Act in that he has self administered
5 Schedule II controlled substances, to wit Demerol and Leritine,
6 as is more particularly alleged as follows: In June, 1978
7 respondent while in the employ of one Lloyd Hamady, M.D. as
8 a physician's assistant, did divert from physician's supply
9 for his own use, the controlled substances Demerol and Leritine,
10 and did self administer (inject) them. Respondent had also
11 intermittently abused drugs in the past, often during times
12 of stress.


13 7. Section 2391.5 of the Code (State Medical
14 Practice Act) provides that a violation of a statute regulating
15 narcotics, dangerous drugs or controlled substances constitutes
16 unprofessional conduct and is grounds for disciplinary action
17 under the State Medical Practice Act. Section 4227(a) of
18 the Code provides that no person shall furnish a dangerous
19 drug without a prescription. Section 11350(1) of the Health
20 and Safety Code provides for imprisonment of a person who
21 possesses without prescription a controlled substance specified
22 in its § 11055(b) or (c).

23 8. Respondent is also subject to disciplinary
24 action by authority of section 3527(a) because the particulars
25 alleged hereinabove at paragraph 4 also demonstrate that
26 respondent has evinced unprofessional conduct within the
27 meaning and did violate section 2391.5 of the State Medical

1 Practice Act, in that they show that he possessed Demerol
2 and Leritine, § 11055(c) controlled substances and § 4211(k)
3 dangerous drugs without prescription in violation of Business
4 and Professions Code § 4227(a) and Health and Safety Code §
5 11350(1), statutes of this state regulating narcotics, dangerous
6 drugs or controlled substances.

7 WHEREFORE, Complainant prays that the Physician's
8 Assistant Examining Committee hold a hearing on the allegations
9 contained herein, and, following said hearing, take such
10 action as provided by sections 3527 (a) of the Business
11 and Professions Code, or taking such other and further action
12 as may be proper.

13 DATED: June 19, 1979

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15 
16 EVON DIXON
17 Executive Secretary
18 Physician's Assistant
19 Examining Committee

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27
Complainant

1 GEORGE DEUKMEJIAN, Attorney General
2 LAWRENCE C. KUPERMAN,
3 Deputy Attorney General
4 110 West A Street, Suite 700
5 San Diego, California 92101
6 Telephone: (714) 237-7309

7 Attorneys for Complainant

8 BEFORE THE PHYSICIAN'S ASSISTANT EXAMINING COMMITTEE
9 DIVISION OF ALLIED HEALTH PROFESSIONS
10 BOARD OF MEDICAL QUALITY ASSURANCE
11 STATE OF CALIFORNIA

12 In the Matter of the Accusation)
13 Against:)

NO. D-2361

14 JAMES R. ROACH, P.A.)
15 1717 East Birch Street)
16 Brea, California)

STIPULATION AND
DECISION OF THE
PHYSICIAN'S ASSISTANT
EXAMINING COMMITTEE

17 License No. PA 10352)

Respondent.)

18 In the interests of a prompt and speedy settlement
19 of this matter, consistent with the public interest and the
20 responsibilities of the Physician's Assistant Examining
21 Committee of the Board of Medical Quality Assurance, IT IS
22 HEREBY STIPULATED AND AGREED AS FOLLOWS:

23 1. An Accusation No. D-2361 is presently pending
24 against James R. Roach, P.A., (hereinafter "respondent") before
25 the Physician's Assistant Examining Committee (hereinafter
26 "committee").

1 2. Respondent has fully discussed with his counsel,
2 Hugh J. Gallagher III, the charges and allegations of violations
3 of the California Business and Professions Code alleged in the
4 accusation and has been fully advised of his rights under the
5 Administrative Procedure Act, including his right to a formal
6 hearing and an opportunity to defend against the charges
7 contained therein, reconsideration, and appeal from any adverse
8 decision which might be rendered following said hearing.

9 3. Respondent knowingly and intelligently waives
10 all rights to a hearing, reconsideration and appeal, and any
11 and all other rights which may be accorded him pursuant to the
12 Administrative Procedure Act on the charges contained in the
13 accusation.

14 4. Respondent admits that each and every allegation
15 of the accusation (a copy of which is attached hereto) is true
16 and that cause exists thereby to impose discipline upon his
17 license. The foregoing admission is made for the purpose of
18 this stipulation only, and in the event this Stipulation and
19 Decision is not adopted by the Committee, the admissions made
20 herein shall be inadmissible in any proceeding involving the
21 parties to it.

22 WHEREFORE, IT IS STIPULATED THE COMMITTEE MAY ENTER
23 THE FOLLOWING ORDER:

24 1. License No. PA 10352 issued to respondent James
25 R. Roach is revoked, provided, however, that the revocation
26 is stayed for a period of three (3) years and that during the
27 three (3) years, respondent shall be placed on probation on the
28 following terms and conditions:

1 (a) Respondent shall obey all the laws of the
2 United States, State of California, and its political
3 subdivisions, and all rules and regulations and laws
4 pertaining to the practice of a Physician's Assistant
5 in this state;

6 (b) Respondent during the period of probation
7 shall report in person to such meetings of the
8 Physician's Assistant Examining Committee or designated
9 representative(s) of the committee as directed;

10 (c) Respondent during the period of probation
11 shall submit verification of actions and reports as are
12 required by the committee;

13 (d) Within the first year of probation, respon-
14 dent shall complete a drug diversion program approved
15 by the committee. Within 30 days of the effective
16 date of the decision, respondent shall submit the name
17 and a description of a drug diversion program for the
18 approval of the committee. If the submitted program
19 is unacceptable, the committee shall provide respondent
20 with the name of an approved program within 60 days.

21 (e) If respondent is employed as a Physician's
22 Assistant at any time during the period of probation,
23 he shall have the employer submit to the board, within
24 fourteen (14) days of his employment or the effective
25 date of this decision, written verification that the
26 employer has read this Stipulation and Decision and the
27 Accusation attached to it, and understands the conditions
28 of probation;

1 (f) Respondent shall cooperate with the committee
2 and the Board of Medical Quality Assurance, or any of
3 its agents or employees, in their supervision and
4 investigation of his compliance with the terms and
5 conditions of this probation. Respondent shall, when
6 requested, submit to such tests and samples as the
7 committee, or its agents or employees, may require
8 for the detection of narcotics, hypnotics, and
9 dangerous drugs, or controlled substances;

10 (g) In the event respondent should leave
11 California to reside or to practice outside the State,
12 respondent must notify in writing the board of the
13 dates of departure and return. Periods of residency
14 or practice outside California will not apply to the
15 reduction of this probationary period.

16 (h) If respondent violates probation in any
17 respect, the board, after giving respondent notice
18 and the opportunity to be heard, may set aside the
19 stay order and impose the revocation of the respondent's
20 certificate;

21 (i) Upon successful completion of probation,
22 respondent's certificate shall be fully restored.

23
24 DATED:

James R. Roach, Jr.
JAMES R. ROACH
Respondent

25
26
27 DATED:

Hugh J. Gallagher
HUGH J. GALLAGHER
Attorney for Respondent

1
2 DATED: March 11, 1980

Evon Dixon Montgomery
EVON DIXON MONTGOMERY
Executive Secretary
Physician's Assistant Examining
Committee
Complainant

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6 DATED: Feb. 14, 1980

Lawrence C. Kuperman
LAWRENCE C. KUPERMAN
Deputy Attorney General
Attorney for Complainant

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9 The foregoing Stipulation and Decision in settlement
10 of Accusation No. D-2361 is accepted by the Physician's
11 Assistant Examining Committee as its decision and shall be
12 effective on the 5th day of June, 1980.

13
14 Marc Babitz, M.D., Chairman
15 MARC BABITZ, M.D.
16 Physician's Assistant
17 Examining Committee
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